

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(Eastern Division)

FILED
IN CLERKS OFFICE

2008 NOV 18 A 10:38

In re:
MARTIN PAUL,
Debtor.

CHAPTER 7

U.S. DISTRICT COURT
DISTRICT OF MASS.

Case No. 05-22881 - WCH

In re:
THE RARITIES GROUP, INC.,
Debtor.

CHAPTER 7

Case No. 03-18371 - WCH

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JEFFREY D. STERNKLAR, as
Trustee of the Estate of Martin B.
Paul, Case No. 03-18371-WCH;
JEFFREY D. STERNKLAR, as
Trustee of the Estate
of The Rarities Group, Inc., Case
No. 05-22881-WCH; and MARTIN
B. PAUL,
Plaintiffs,

v.

HERITAGE AUCTION
GALLERIES, INC., HERITAGE
GALLERIES AND
AUCTIONEERS, HERITAGE
CAPITAL CORPORATION,
HERITAGE AUCTIONS, INC.,
STEVEN IVY, and
JAMES HALPERIN,
Defendants.

Adversary Proceeding No. 08-1070

To: The United States District Court for the Eastern District of Massachusetts.

DEFENDANTS' MOTION FOR LEAVE TO APPEAL

Pursuant to 28 U.S.C. § 158(a) and Fed. R. Bankr. P. 8001(b) and 8003, and subject to
their appeal as a matter of right pursuant to §16(a)(1) of the Federal Arbitration Act ("FAA"), 9

37

U.S.C. § 1 *et. seq.*, Defendants¹ Heritage Capital Corporation and Heritage Auctions, Inc., d/b/a Heritage Galleries and Auctioneers, Steven Ivy, and James Halperin (collectively “Defendants”) hereby request leave to appeal from the November 4, 2008 Order (doc #32, the “Order”) of the United States Bankruptcy Court for the District of Massachusetts, Eastern Division denying Defendants’ Motion to Dismiss or Stay and Compel Arbitration, and Alternative Motion to Dismiss Fraud Claims Pursuant to Rule 9(b). Defendants rely on the attached Memorandum in Support of Motion for Leave to Appeal filed herewith and incorporated herein by reference.

Relief Requested

Subject to their appeal as a matter of right under §16(a)(1) of the FAA, Defendants respectfully request leave to appeal the Order under 28 U.S.C. §158(a)(3), and any other and further relief that this Court deems just and equitable.

Respectfully submitted,

GARDERE WYNNE SEWELL LLP²

/s/ Connor G. Sheehan

Deirdre B. Ruckman

State Bar No. 21196500

William D. Dunn

State Bar No. 24002023

Connor G. Sheehan

State Bar No. 24046827

1601 Elm Street, Suite 3000

Dallas, Texas 75201-4761

(214) 999-3000 – Telephone

(214) 999-4667 – Facsimile

Attorneys for (Heritage Auction Galleries, Inc.,
Heritage Galleries and Auctioneers, Heritage
Capital Corporation, Heritage Auctions, Inc.,
Steven Ivy, and James Halperin)

¹ Named Defendant “Heritage Auction Galleries, Inc.” is not the correct name of any Defendant or any entity affiliated with Defendants. All Defendants join in this motion.

² Counsel for Defendants are currently admitted *pro hac vice* in the United States Bankruptcy Court, District of Massachusetts. As instructed by the Clerk, Counsel will immediately apply for admission *pro hac vice* in the United States District Court, Eastern District of Massachusetts through local counsel.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of November, 2008, a true and correct copy of the above document was served via facsimile and ECF on all counsel of record as follows:

Ronald M. Jacobs
Conn Kavanaugh Rosenthal Peisch
& Ford, LLP
Ten Post Office Square
Boston, MA 02109
(617) 482-8200
Attorney for Plaintiffs

/s/ Connor G. Sheehan

Connor G. Sheehan